

APR 19 2006

Attorney Docket No. 76272

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**In re Patent Application of
BERKENSTAM et al.**

Application No.:	09/896,791	Art Unit:	1642
Filed:	June 29, 2001	Examiner:	Gary B. Nickol
Title:	INHIBITORY PAS DOMAIN PROTEIN (IPAS) AND SCREENING METHODS RELATED TO ANGIOGENESIS AND TUMOR PROGRESSION		

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 C.F.R. §1.181****Mail Stop Petition
Commissioner for Patents
PO BOX 1450
Alexandria, Virginia 22313-1450****Via facsimile to 571 273 8300
Page 1 of 5****Sir:**

A Notice of Abandonment was erroneously issued in the above-noted case; withdrawal of the same and prompt issuance of the patent is respectfully requested. A copy of the Notice is attached.

A Notice of Allowability was mailed on September 6, 2005, indicating the Issue Fee was due by December 6, 2005. The Issue Fee Transmittal attached thereto incorrectly identified the Applicant as a large entity, and therefore listed the fees due as \$1700 (\$1400 Issue Fee, \$300 Publication Fee).

On December 2, 2005, Applicant paid the Issue Fee. The transmittal was marked to indicate Applicant is a small entity and the total fees due were therefore \$1000. Section 4a of the transmittal indicates Applicant authorized the Director to charge the Issue and Publication fees to Deposit Account No. 501249, which contained sufficient funds for the charge. Section 5 further noted that Applicant claimed small entity status. A copy of the transmittal printed from the USPTO's PAIR page is attached.

As the Applicant timely indicated the entire fee should be taken from a deposit account containing sufficient funds, the holding of abandonment is incorrect; the

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issue and publication fees have been properly paid and the patent should proceed to issue.

It is therefore believed that a Petition to Withdraw Holding of Abandonment under 37 C.F.R. §1.181 is appropriate. Should the Office of Petitions determine instead that the application is in fact abandoned Applicants hereby request the presently-filed petition be considered as a petition to revive, the fee for which may be deducted from Deposit Account no. 501249. Applicants also concurrently request refund of the Petition Fee as the holding of abandonment, if maintained, is due to a USPTO error.

Should there be any questions in regard to this Petition a telephone call to the undersigned is appreciated.

Respectfully Submitted,

April 19, 2006



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Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office (Fax. No. 571 273 8300) on April 19, 2006.

Signature 
Olivia Tolan



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P. O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,791	06/29/2001	Anders Berkonstam	76272	8306

26288 7590 04/06/2006
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EXAMINER

NICKOL, GARY B

ART UNIT

PAPER NUMBER

1642

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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004/005

Notice of Abandonment

Application No.

08/896,791

Examiner

NICKOL

Applicant(s)

BERKENSTAM

Art Unit

1642

- The MAILING DATE of this communication appears on the cover sheet with the correspondence address-

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☒ The submitted fee of \$300 is insufficient. A balance of \$1400 is due.
The issue fee required by 37 CFR 1.18 is \$1400. The publication fee, if required by 37 CFR 1.18(d), is \$300.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

lgd

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

U.S. Patent and Trademark Office
TOL-1432 (Rev. 04-01)

Notice of Abandonment

Part of Paper No. 0